

FILED

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF VIRGINIA

Alexandria Division

IN RE:) **UNDER SEAL**
GRAND JURY CASE NO. 10-GJ-3793) (Pursuant to Local Criminal Rule 49 and
) Fed. R. Crim. P. 6(e))
) Case No. 1:19-DM-3
)
) GRAND JURY NO. 18-4
)

GOVERNMENT'S RESPONSE TO MOTION TO UNSEAL

The United States respectfully submits this response to Chelsea Manning's Motion to Unseal. In her motion, Manning requests that the Court unseal the pleadings related to her Motion to Quash filed on March 1, 2019. In light of the contempt proceedings that were conducted in open court, the United States does not oppose this request. As a result, the United States submits that the Court may unseal (1) the Motion to Quash (with the exception of the Declaration of Chelsea Manning, which Manning asks be kept under seal), (2) the Government's Response in Opposition to the Motion to Quash, filed on March 4, 2019, (3) the transcript of the March 5, 2019 hearing on the Motion to Quash, (4) the Motion to Unseal, filed on March 4, 2019, and (5) this response.¹ The United States has attached a proposed order to this effect.

¹ Manning has not moved to unseal the transcript of the closed portion of the contempt proceedings. The Court should keep that transcript under seal because it reveals questions that were asked of Manning during the grand jury proceeding. Consistent with well-established caselaw, the Court properly closed the courtroom during that portion of the contempt proceeding and then opened the courtroom for the remainder of the proceeding. See, e.g., Fed. R. Crim. P. 6(e)(5) advisory committee's notes to 1983 amendments; *Levine v. United States*, 362 U.S. 610, 614-15 (1960); *United States v. Index Newspapers LLC*, 766 F.3d 1072, 1090-91 (9th Cir. 2014); *United States v. Smith*, 123 F.3d 140, 149 n.13 (3d Cir. 1997); *In re Grand Jury Subpoena*, 97 F.3d 1090, 1094-95 (8th Cir. 1996).

Because the United States does not oppose the relief sought in the Motion to Unseal, the Court need not conduct a hearing on it.

Respectfully submitted,

G. Zachary Terwilliger
United States Attorney

By: 
Tracy Doherty-McCormick
First Assistant United States Attorney

Gordon D. Kromberg
Kellen S. Dwyer
Thomas W. Traxler
Assistant United States Attorneys
United States Attorney's Office
2100 Jamieson Avenue
Alexandria, VA 22314
Telephone (703) 299-3700
Facsimile (703) 299-3980
Thomas.traxler@usdoj.gov

Matthew R. Walczewski
Nicholas Hunter
Trial Attorneys, National Security Division
U.S. Department of Justice
950 Pennsylvania Avenue NW
Washington, DC 20530
Telephone (202) 233-0986
Facsimile (202) 532-4251
Matthew.walczewski@usdoj.gov

CERTIFICATE OF SERVICE

I hereby certify that on the 18th day of March, 2019, I caused the foregoing document to be sent to the following via electronic mail:

Moira Meltzer-Cohen
Attorney at Law
Mo_at_Law@protonmail.com

Christopher Leibig
Attorney at Law
Chris@chrisleibiglaw.com

Sandra C. Freeman
Attorney at Law
sandra.c.freeman@protonmail.com



Thomas W. Traxler
Assistant United States Attorney